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## Judge: Speeding tickets violated state law

Posted by [Susan Oppat](#) | The Ann Arbor News January 04, 2008 21:31PM  
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An Ann Arbor judge reluctantly threw out two speeding tickets Friday - along with the way the city sets speed limits.

But what that means to other motorists isn't quite clear.

The city attorney says he will likely appeal, and even the defense attorney in one of the two cases says other people ticketed for speeding in the city of Ann Arbor will probably have to battle their way through court.

In tossing the two speeding tickets on Friday, 15th District Chief Judge Julie Creal said she is not convinced state lawmakers understood what could happen if a 2006 state traffic code were enforced. But, she said, cities must comply with state law, and the way Ann Arbor set speed limits - at least on two city roads - does not.

Under the Michigan Vehicle Code, the default state traffic law that Ann Arbor has adopted, the city may only use the number of access points - driveways and intersections - along a half-mile stretch of road to set speed limits. The fewer access points, the higher the speed that must be set.

Creal's ruling was prompted by speeding tickets issued last year in separate cases to two Ann Arbor residents, both of whom happened to be traffic experts.

On May 15, James Walker, of Ann Arbor, was ticketed for traveling 40 mph in a 30 mph zone on southbound Nixon Road north of Bluett Road.

Walker has testified before state lawmakers on setting safer, 85th percentile speed limits. National studies indicate that setting limits at the speed at or below which 85 percent of drivers travel reduces friction between drivers and boosts safety.

Walker says Ann Arbor's posted limits typically fall in the 10th to 30th percentile of actual speeds.

Dietrich Bergmann, also of Ann Arbor, is a transportation engineer who was ticketed June 15 on Huron Parkway south of Huron River Drive. The limit on that

stretch of road - which was improved in 1999 and again in 2005 - was lowered from 40 to 35 mph without traffic or engineering studies to support the reduction.

Bergmann, who was ticketed for driving 45 mph, and Walker argued that the city cannot legally set a limit lower than allowed under the access-point law unless it adopts the 2006 Uniform Traffic Code.

Under that code, cities may also use traffic and engineering studies to set speed limits, according to Lt. Gary Megge of Michigan State Police traffic services. He said it is the safest way to set a speed limit.

"The 85th percentile speed is the biggest factor when we look at setting a realistic limit because all those other things, the motorist already takes those into account - traffic volume, the number of lanes, width of lanes, curves in the road, pedestrians. We tend to drive slower in congested areas and faster in less congested areas, because we want to drive safely and comfortably."

Walker's attorney, John Shea, acknowledged that Creal did not technically throw out all of the city's speed limits.

But as a practical matter, he said, the judge ruled that the city is bound by the access-point law unless it adopts the UTC, and then it must follow those standards.

Megge said that regardless of the posted speed, basic speed law still applies. Any speed too fast for conditions, whether those conditions are weather, pedestrian or other traffic or even time of day, is a violation.

City Attorney Stephen K. Postema said he has not made a final decision about an appeal, but he added that "likely this will go through the court system, all the way to the Supreme Court." He said he will have to study the issue further before he takes it to City Administrator Roger Fraser or to City Council.

He also said he had not yet spoken with city police about how speed limits will be enforced pending appeal or adoption of a new method for setting speed limits.

Shea said that 25 mph speed limits set in cities and villages as far back as the 1920s were appropriate for the times. But that was before traffic lights, seat belts, safer cars and paved roads.

Now, he said, "the public believes that slow means safe, and that's not always true.

"If you're interested in safe and efficient traffic flow, and making sure people who do drive prudently don't find themselves inadvertently in violation of the law, then you bring your speed limits into the 21st century.

"That's why the Uniform Traffic Code uses the 85th percentile as a starting point for determining what a safe and prudent speed is - because 85 percent of people are safe and prudent. And when you get on roads that are posted so low that most people are in violation of the law, you've got a problem with the law."

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